

REMARKS

I. Status of the Application

This paper is filed in response to the final official action dated February 24, 2009, wherein: (a) claims 14-17, 20-30, and 32-40 were pending; (b) the specification was indicated to be objected to; (c) claims 39 and 40 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite; (d) claims 14-17, 20, 21, 25, 27-30, 32, 33, 37, 39, and 40 were rejected under 35 U.S.C § 102(b) as anticipated by U.S. Patent No. 4,466,656 to Igel ("Igel"); (e) claims 22-24 and 34-36 were rejected under 35 U.S.C § 103(a) as unpatentable over Igel in view of U.S. Patent No. 5,851,051 to Schmidhuber et al. ("Schmidhuber"); (f) claims 25, 37, 39, and 40 were rejected under 35 U.S.C. § 103(a) as unpatentable over Igel; (g) claims 26 and 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Igel in view of U.S. Patent No. 6,315,355 to Lamm.

By way of this response, claims 14 and 27 are amended. Support for the amendments to the claims is found at paragraphs [0009] and [0023] and Figs. 3 and 5-7 of the published application, and elsewhere throughout the original specification and claims. No claims are withdrawn or canceled. Thus, claims 14-17, 20-30, and 32-40 are pending and at issue. Reconsideration of the application, as amended, is solicited.

II. Amendments After Final Rejection Proper For Entry

The amendments to claims 14 and 27 are proper for entry after this final rejection because they place the application in condition for allowance. The examiner indicated in the Interview Summary accompanying the February 24, 2009, official action that an amendment to claim 14, as previously proposed by the applicants during the interview of January 16, 2009, appeared allowable over the prior art of record. In that summary, the examiner further indicated that the following proposed amendments to claim 14 made that claim allowable: 1) the obliquely downward closing motion, 2) the projection extending in that motion, 3) the seal being received in a recessed area rearward of the projection, and 4) the projection contacting a portion of the interfering body that is level with or below an upper surface of the seal. Both claims 14 and 27 are hereby amended to include all of the above limitations. Because the examiner has previously evaluated the current amendments to be allowable over the art of record, these amendments place the claims in condition for allowance and are, thus, proper for entry after the February 24, 2009, final official action.

III. Specification Objections

The *Office Action Summary* page of the official action dated February 24, 2009, indicates at block 9 that the specification is objected to by the examiner. Finding no reasoning for the objection in the body of the official action, the applicants assume that the objection was indicated on the *Office Action Summary* in error, possibly as an artifact from a previous action. Accordingly, the applicants make no revisions to the specification in this response.

IV. Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 39 and 40 were rejected under 35 U.S.C. § 112, second paragraph. The action alleges that the claims are indefinite because claims 39 and 40, as depending from claims 27 and 14, respectively, do not define the orientation of the interfering body and projection. Claims 14 and 27 are both amended to recite that the projection extends from the front edge of the movable roof element in the closing motion of the roof, the closing motion directed obliquely downwardly with reference to the roof opening. Therefore, if the interfering body is present between the frame and roof, the closing motion will cause the projection to contact the interfering body at an oblique angle before the roof engages the seal, as generally recited in claims 39 and 40. Because this amendment defines the orientation of both the projection and the body, the applicants believe these amended claims are not indefinite. Reconsideration and withdrawal of the rejections of claims 39 and 40 under §112, second paragraph are respectfully requested.

V. Claim Rejections Under 35 U.S.C. § 102

A. Claims 14 and 27

As discussed above, claims 14 and 27 are amended to include all of the limitations discussed during the January 16, 2009, interview, which the examiner agreed were not disclosed in the art of record. Particularly, claims 14 and 27 recite an angled projection that extends from a movable roof element in a closing motion of the roof that is directed obliquely downwardly with reference to the roof opening. A recessed area defined by the movable roof element and the projection receives at least a portion of the seal rearwardly of the projection while the closing motion brings the movable roof element toward the closed position. Thus, the projection contacts an interfering body before the roof element engages the seal element, if the interfering body is present between the frame and

roof, and the projection contacts a portion of the interfering body that is level with or below an upper surface of the seal.

The action presents Igel as allegedly disclosing a roof opening front edge, movable roof element 3, angled projection 20, frame 2, and seal element 18, wherein the roof receives a portion of the seal as shown in Figures 2 and 3. Further, the action discusses that the projection 20 is capable of receiving an interfering body at a height of the seal 18 or below the upper surface thereof. As shown in Figs. 2 and 3 of Igel, the frame 2 is positioned above the seal 18. For any interfering body that is positioned between the frame 2 and the roof 3, the projection 20 could only contact the portion of the body that is above an upper surface of the seal. Therefore, Igel cannot teach or suggest that the disclosed projection 20 is able to contact a portion of the interfering body that is level with or below the upper surface of the seal, before the recessed area receives the seal, as generally recited in amended claims 14 and 27.

The action further alleges that an imaginary interfering body positioned atop the seal 18 and in contact with the element 14 would result in the projection 20 contacting a portion of the body level with or below the seal. However, amended claims 14 and 27 do not recite such positioning of the interfering body. Rather, claims 14 and 27 recite that the body is positioned between the frame 2 and the roof 3, not between the seal 18 and in contact with element 14, as alleged. As discussed above, the frame 2 disclosed by Igel is clearly positioned above an upper surface of the seal 18, not at or below an upper surface of the seal, as claimed. Thus, an interfering body positioned between the frame 2 and the roof 3 disclosed by Igel would necessarily result in the projection 20 contacting the portion of the body that is above an upper surface of the seal, rather than a portion of the interfering body that is level with or below an upper surface of the seal, as recited in amended claims 14 and 27. Because Igel does not teach or suggest every limitation of amended claims 14 and 27, these claims, and claims 15-17, 20, 21, 25, 27-30, 32, 33, 37, 39, and 40 depending therefrom, are allowable, and an indication to that effect is solicited.

VI. Claim Rejections Under 35 U.S.C. § 103

A. Claims 22-26, 34-39, and 40

Each of claims 22-26, 34-39, and 40 are rejected as unpatentable over Igel in view of one of Schmidhuber, common knowledge, or Lamm, as discussed in the "Status of the Application" portion, above. Each of these claims depends from claims rejected as

anticipated by Igel, as also discussed above. None of Schmidhuber, common knowledge, or Lamm teaches or suggests the elements of claims 22-26, 34-39, and 40 that Igel fails to teach or suggest. At least for this reason, the applicants respectfully submit that the action failed to establish a *prima facie* case of obviousness of these claims. Accordingly, claims 22-26, 34-39, and 40 are not obvious over the applied references, and an indication to that effect is solicited.

VII. Conclusion

A prompt indication of allowability is solicited. Should the examiner wish to discuss the foregoing or any matter of form in an effort to advance this application toward allowance, he is urged to telephone the undersigned at the indicated number.

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Respectfully submitted,

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